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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,216	05/31/2001	Marcel F.C. Schemmann	11890/2	6854
26646	7590	06/02/2006	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			PHAN, HANH	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/871,216	Applicant(s) SCHEMMANN ET AL.	
	Examiner Hanh Phan	Art Unit 2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11, 13 and 24-29 is/are allowed.
- 6) ☒ Claim(s) 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to the RCE filed on 02/10/2006.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nystrom et al (US Patent No. 5,412,351) in view of Adachi et al (Pub. No.: US 2001/0050962) .

Regarding claim 12, referring to Figures 1 and 5a, Nystrom discloses a method of reducing the transmitted power of a quadrature modulated data signal, comprising the steps of:

providing a quadrature modulated data signal (Figs. 1 and 5a); and

during all transitional states of the quadrature modulated data signal in which data symbols can change in value, reducing the power to zero such that transmitted power decreases to zero at approximately a mid point of each of the transitional states (see col. 1, lines 16-28, col. 2, lines 60-67 and col. 3, lines 1-14).

Nystrom differs from claim 12 in that he does not specifically teach the signal is an optical signal. However, Adachi teaches the signal is an optical signal (Figs. 9 and 16, page 7, paragraphs [0151]-[0152]). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the signal is an

optical signal as taught by Adachi in the system of Nystrom. One of ordinary skill in the art would have been motivated to do this since Adachi suggests in page 7, paragraphs [0151]-[0152] that using such the signal is an optical signal has advantage of allowing providing an optical communication system with high speed and high capacity.

Allowable Subject Matter

4. Claims 1-11, 13 and 24-29 are allowed.

Response to Arguments

5. Applicant's arguments filed 02/10/2006 have been fully considered but they are not persuasive.

The applicant's arguments to claim 12 are not persuasive. The independent claim 12 is now amended to include the limitation of "**during all transitional states of the quadrature modulated optical data signal in which data symbols can change in value, reducing the power to zero such that transmitted power decreases to zero at approximately a mid point of each of the transitional states**" and applicant argues that the cited references fail to teach such limitation. The examiner respectfully disagrees. As indicated in Figure 1, Nystrom teaches during all transitional states of the quadrature modulated data signal in which data symbols can change in value, reducing the power to zero such that transmitted power decreases to zero at approximately a mid point of each of the transitional states (see Fig. 1, col. 1, lines 16-28, col. 2, lines 60-67 and col. 3, lines 1-14).

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Therefore, it is believed that the limitations of claim 12 are still met by the combination of Nystrom and Adachi and the rejection is still maintained.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (571)272-3035.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached on (571)272-3022. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.


HANH PHAN
PRIMARY EXAMINER